

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LINDA SHAALAN

Appeal No. 97-2229
Application No. 08/094,748¹

ON BRIEF

Before STONER, *Chief Administrative Patent Judge*, COHEN and ABRAMS, *Administrative Patent Judges*.

ABRAMS, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the decision of the examiner finally rejecting claims 1-3, 5, 7, 14, 19-21 and 23-32, which constitute all of the claims remaining of record in the application.

The appellant's invention is directed to a garment

¹Application for patent filed July 22, 1993.

folding apparatus. The subject matter before us on appeal is illustrated by reference to claim 1, which reads as follows:

1. A removable garment folding apparatus which is completely removed from the garment after the garment has been folded, comprising:

a main body portion shaped and dimensioned to conform to a desired folded dimension of a garment to be folded, said main body portion having a flat, rectangular shape;

said main body portion being fabricated of a substantially rigid material;

means for supporting said apparatus without said garment when said removable garment folding apparatus is not in use, said supporting means extending from an upper end of said main body portion;

said main body portion comprising a pair of side fold-guiding edge portions, a bottom fold-guiding edge portion, and a centering mark;

said side fold-guiding edge portions being defined by opposite side edges of said main body portion which are smooth and continuous along their entire lengths and which are parallel to one another;

said smooth, parallel side fold-guiding edge portions being freely slidable relative to garment portions folded thereover to permit free sliding disengagement and complete removal of said apparatus from the garment folded thereon;

said main body portion being adapted to be centered relative to said garment to be folded by aligning said centering mark with the center of the collar of said garment to be folded;

said main body portion being adapted to have said garment folded only over said smooth, parallel side fold-guiding

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portions and said bottom fold-guiding edge portion; and

said apparatus being completely removed from said garment after folding operations are complete by upwardly pulling said apparatus free from the folded garment.

THE REFERENCES

The references relied upon by the examiner to support the final rejection are:

Bachmann 1918	1,252,461	Jan. 1,
Datlow 1990	4,944,417	Jul. 31,

THE REJECTIONS

Claims 1, 19 and 26 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bachmann.

Claims 2, 3, 5, 7, 14, 20, 21, 23-25 and 27-32 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bachmann in view of Datlow.²

²While in the Answer this rejection is applied to claims 20-25, it appears that this was in error, for, apparently due to an error in claim numbering, a claim 22 never was made of
(continued...)

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The rejections are explained in Paper No. 14 and in the Examiner's Answer.

The opposing viewpoints of the appellant are set forth in the Brief on Appeal.

²(...continued)
record (see Paper No. 13 and the Brief).

OPINION

Independent claims 1, 19 and 26 stand rejected as being anticipated by Bachmann.³ These claims are directed to a garment folding apparatus which is completely removed from the garment after folding. This is not the case with the Bachmann device, which is disclosed as a coat hanger comprising a panel 12 that would appear to be intended to remain installed in the garment. While Bachmann makes no mention of folding a garment, it is our view that one of ordinary skill in the art would have understood that at least the lower portion of the garment is intended to be folded up along the bottom edge of panel 12 before the panel is placed in box 7.

The cited claims require that the device have a main body portion "having a flat, rectangular shape." The overall shape of Bachmann hanger 12 is not rectangular, but the examiner has reasoned that this limitation can be read on the lower portion of the Bachmann hanger, with the upper boundary being a line

³Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of the claimed invention. See *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.), cert. dismissed sub nom., *Hazeltine Corp. v. RCA Corp.*, 468 U.S. 1228 (1984).

between the points of intersection of the curved upper edges 15 and the respective side edges. Such an interpretation gives rise to a problem, however, with regard to the claimed "centering mark," which provides a reference point for centering the garment to be folded on the device. As is explained later in the claim, the centering mark is required to be located on the rectangular main body portion. Therefore, even considering, *arguendo*, the center staple 18 shown in the Bachmann hanger to be a "centering mark," as did the examiner, it would not be located in the position required by the claim language, that is, in the rectangular body portion. Moreover, centering actually is accomplished in the Bachmann device by hanging the garment over the curved top edges with its neck portion spanning handle 13, which clearly establishes that the noted center staple 18 is not a "centering point," from the standpoint of functional relationship to hanger 12, but merely a fastener that happens to be shown in the drawings as being located on the centerline of the hanger. If, as an alternative, one were to label the handle as the "centering point," the "main body portion" could not be of the required rectangular shape, for it also would

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have to encompass the curved upper portion of the hanger, where the handle is located.

Thus, the subject matter discussed above is not found in Bachmann, and the reference therefore is not anticipatory of claims 1, 19 and 26 on this basis.

Claim 26 has another distinguishing feature, in that it requires that the side edge portions be parallel to each other, and that there be an upper edge portion which is perpendicular to the side edge portions. This clearly is not present in Bachmann. For the reasons set forth above, we will not sustain the rejection of claims 1, 19 and 26.

All of the dependent claims stand rejected as being unpatentable over Bachmann in view of Datlow, which discloses a separator for hanging in a closet between stored garments. Although not so stated in the rejection in Paper No. 14, it would appear that Datlow is cited by the examiner for its disclosure of utilizing materials other than those specified in Bachmann, from which the examiner has concluded that one of ordinary skill in the art would have found it obvious to utilize the various materials specified in the claims. We have discussed the shortcomings of Bachmann above with regard

to the independent claims, and they are not alleviated by considering the teachings of Datlow. This being the case, it is our view that the combined teachings of the two references fail to establish a *prima facie* case of obviousness⁴ with regard to any of the claims, and therefore we will not sustain the Section 103 rejection.

In view of the fact that we have not sustained the rejection under 35 U.S.C. § 103, it is unnecessary for us to consider the appellant's evidence of non-obviousness.

⁴ A *prima facie* case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art. See, for example, *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993).

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SUMMARY

Neither rejection is sustained.

The decision of the examiner is reversed.

REVERSED

	BRUCE H. STONER, Jr., Chief)	
	Administrative Patent Judge)	
)	
)	
)	
	IRWIN CHARLES COHEN)	BOARD OF
PATENT	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
	NEAL E. ABRAMS)	
	Administrative Patent Judge)	

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